

# Exhibit "A"

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2/22/2022 10:32 AM  
Hidalgo County District Clerks  
Reviewed By: Armando Cantu

CAUSE NO. C-0642-22-A

SILVIA ALANIZ,  
*Plaintiff*

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IN THE DISTRICT COURT

\_\_\_\_ JUDICIAL DISTRICT

v.

CUTLER REPAVING, INC.  
*Defendant*

HIDALGO COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

SILVIA ALANIZ, plaintiff, files this Original Petition complaining of CUTLER REPAVING, INC., defendant, and shows:

**1. DISCOVERY CONTROL PLAN**

Plaintiff alleges that discovery is intended to be conducted under Level 2 of Rule 190.1, and urge that the Court order that discovery be conducted in accordance with a discovery control plan tailored to the circumstances of this case.

**2. PARTIES**

Plaintiff is an individual who resides in Hidalgo County, Texas.

Defendant, CUTLER REPAVING, INC., is a foreign for-profit corporation, which may be served by serving its registered agent for service of process:

C T Corporation System  
1999 Bryan St., Ste. 900  
Dallas, TX 75201-3136

**3. JURISDICTION**

This court has jurisdiction since the incident giving rise to plaintiff's claims occurred in

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Texas and because the damages are within its jurisdictional limits. No federal court has jurisdiction because there is no diversity of citizenship between plaintiffs and defendants, and since plaintiffs raise no causes of action that raise or touch upon federal question jurisdiction.

**4. VENUE**

Venue is proper in Hidalgo County because the incident made the basis of this suit occurred in Hidalgo County.

**5. FACTS**

This lawsuit arises as a result of personal injuries Plaintiff sustained on or about March 11, 2020.

At that time, Plaintiff Silvia Alaniz had stationed her vehicle across the street from her home located at 709 Gabriella Avenue Pharr, TX 78577, in Hidalgo County, Texas, in front of 708 Gabriella Avenue Pharr, TX 78577, parallel parked on the road.

Plaintiff then stepped out of her vehicle, where Defendant's employees had been working. Defendant Cutler Repaving, Inc. was hired and in the course of reconstructing the street of Gabriella Avenue Pharr, TX 78577, in Hidalgo County, Texas.

Shortly after exiting her vehicle, plaintiff slipped and tripped on the recently excavated and obstructed asphalt which was located on the unattended and improperly maintained road causing her to fracture her ankle and injure her body. There were no visible barriers, cones and/or signs designating the location as being under construction by Defendant Cutler Repaving, Inc. Consequently, Plaintiff suffered serious and permanent bodily injuries.

**6. NEGLIGENCE**

On the incident described above, Defendant owed a duty to Plaintiff to use reasonable

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and ordinary care in the inspection, maintenance and upkeep of the premises where they were working and/or operating.

At all times herein, Defendant, Cutler Repaving, Inc., was hired to work/operate on the premises being Gabriella Avenue Pharr, TX 78577. At all times mentioned herein, Defendant, Cutler Repaving, Inc., owed certain duties to Plaintiff.

At all times pertinent herein, Defendant, Cutler Repaving, Inc., its agents, representatives and/or servants were acting in the course and scope of their employment with Defendant, Cutler Repaving, Inc., Defendant is liable of negligent conduct toward the Plaintiff in the following manner:

- In failing to properly inspect and maintain the area in question to discover the dangerous condition.
- In failing to maintain the area in a reasonably safe condition;
- In failing to give adequate warning to Plaintiff of the unsafe condition of the area.
- Knew or had reason to know of the dangerous condition of the roadway.
- Alternatively, in increasing the risk of harm to Plaintiff by failing to exercise reasonable care in paving the road.

Each of the foregoing acts of negligence was a directed and proximate cause of Plaintiff's resulting injuries and damages.

**7. RESPONDEAT SUPERIOR OF CUTLER REPAVING, INC.**

Plaintiff would show that, based on the above-described facts, Defendant Cutler Repaving, Inc. was negligent. Defendant Cutler Repaving, Inc. as owner (having undertaken control) of the premises had a duty to inform Plaintiff of the dangerous condition and make safe the defective and dangerous condition existing on Defendant's premises.

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Defendant Cutler Repaving, Inc. breached the duty owed to Plaintiff in the following ways:

- In failing to properly train, supervise, and educate their employees in maintaining safe conditions on the premises
- In failing to properly supervise its employees
- In failing to construct, maintain, secure, and/or warn as a reasonably prudent road paving company would.

Each of the foregoing negligent acts/and or omissions, was a proximate cause of Plaintiff's injuries and damages. Defendant was also negligent in that they failed to act as reasonably prudent premises owner and/or manager would act in the same or similar situation.

At the time of the incident described herein, Defendant Cutler Repaving, Inc. was hired to work/operate on the premises located in front of 709 Gabriella Avenue Pharr, TX 78577. Defendant Cutler Repaving, Inc. was the sole owner/operator in charge of maintaining the designated work area aforementioned. Therefore, Cutler Repaving, Inc. is liable for Plaintiff's damages under the Doctrine of Respondent Superior because of the Negligence of Cutler Repaving, Inc. employees, agents and/or representatives, which were a proximate cause of the incident and resulting damages described herein.

**8. DAMAGES.**

As a direct and proximate result of defendant's acts and omissions, plaintiff suffered serious personal injury. Plaintiff's damages exceed the minimum jurisdictional limit of this Court, and include,

- A. past, present, and future medical bills;
- B. past, present, and future physical pain and mental anguish;
- C. past, present, and future physical impairment;

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- D. past, present, and future disfigurement;
- E. lost earnings in the past, and/or lost earnings capacity in the future.

**10. GROSS NEGLIGENCE OF CUTLER REPAVING, INC.**

After conducting discovery, plaintiff reserves the right to allege that the conduct of CUTLER REPAVING, INC. involved a high degree of risk, considering the probability and magnitude of potential harm to others, and that CUTLER REPAVING, INC. was subjectively aware of the risks that resulted from its choices, but nonetheless proceeded with conscious indifference to the rights, safety, or welfare of others. Plaintiff reserves the right to sue CUTLER REPAVING, INC. for exemplary damages in an amount to be left to the sole province of the jury, to discourage future acts of such nature.

**11. RULE 47 STATEMENT**

The damages sought by plaintiffs are within the jurisdictional limits of the court. Plaintiff seeks damages over \$250,000.00, but not more than \$1,000,000.00.

**12. PREJUDGMENT INTEREST**

Plaintiff seeks pre-judgment interest on the past damages found by the trier of fact.

**13. JURY DEMAND**

Plaintiff demands a trial by jury and have tendered the jury fee.

**14. RULE 193.7 NOTICE.**

Pursuant to Tex.R.Civ.P. 194.2 (b), plaintiff gives notice that they will use at trial any and all documents produced by the defendants in response to written discovery in this case.

**15. INITIAL DISCLOSURES**

The defendant must disclose, within 30-days after the filing of the first answer or general

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appearance, unless a different time is set by the parties' agreement or court order, the material and information described in Tex.R.Civ.P. 194.2 (b).

**P R A Y E R**

WHEREFORE, plaintiff prays that, on final trial, plaintiff have:

1. Judgment against defendant for damages in a sum in excess of the minimum jurisdictional limits of the court;
2. Pre-judgment interest;
3. Post-judgment interest;
4. Costs of suit;
5. All such other relief to which plaintiff may show themselves to be entitled.

Respectfully submitted,

LAW OFFICES OF EZEQUIEL REYNA, JR., P.C.



Ezequiel Reyna, Jr.  
State Bar No. 16794/98  
[ismiguel@zreynalaw.com](mailto:ismiguel@zreynalaw.com)  
[dolivarez@zreynalaw.com](mailto:dolivarez@zreynalaw.com)  
[esmer@zreynalaw.com](mailto:esmer@zreynalaw.com)  
Tomas A. Caquias  
Texas State Bar No. 24100073  
[tcaquias@zreynalaw.com](mailto:tcaquias@zreynalaw.com)  
[cristina@zreynalaw.com](mailto:cristina@zreynalaw.com)  
702 W. Expressway 83, Suite 100  
Weslaco, Texas 78596  
(956) 968-9556 Phone / (956) 969-0492 Fax  
ATTORNEYS FOR PLAINTIFFS

**NOTICE:** Pursuant to TRCP 126: Statement of Inability to Afford Payment of Court Costs or an Appeal Bond filed = NO

**C-0642-22-A**  
**92ND DISTRICT COURT, HIDALGO COUNTY, TEXAS**

**CITATION**  
**THE STATE OF TEXAS**

**NOTICE TO DEFENDANT:** You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served with this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](http://TexasLawHelp.org).

**CUTLER REPAVING, INC.**  
**BY SERVING REGISTERED AGENT C T CORPORATION SYSTEM**  
**1999 BRYAN ST SUITE 900**  
**DALLAS TX 75201-3136**

You are hereby commanded to appear by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION** on or before 10:00 o'clock a.m. on the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable Luis M. Singleterry, 92nd District Court of Hidalgo County, Texas at the Courthouse at 100 North Closner, Edinburg, Texas 78539.

Said petition was filed on this the 22nd day of February, 2022 and a copy of same accompanies this citation. The file number and style of said suit being C-0642-22-A, **SILVIA ALANIZ VS. CUTLER REPAVING, INC.**

Said Petition was filed in said court by Attorney **EZEQUIEL REYNA, JR.**, 702 W EXPRESSWAY 83 STE 100 WESLACO TX 78596.

The nature of the demand is fully shown by a true and correct copy of the petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

**ISSUED AND GIVEN UNDER MY HAND AND SEAL** of said Court at Edinburg, Texas on this the 23rd day of February, 2022.

**LAURA HINOJOSA, DISTRICT CLERK**  
**100 N. CLOSNER, EDINBURG, TEXAS**  
**HIDALGO COUNTY, TEXAS**

  
**ALAN GARCIA, DEPUTY CLERK**





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**OFFICER'S RETURN**

Came to hand on \_\_\_\_\_ of \_\_\_\_\_, 202\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_m. and executed in \_\_\_\_\_ County, Texas by delivering to each of the within named Defendant in person, a true copy of this citation, upon which I endorsed the date of delivery to said Defendant together with the accompanying copy of the \_\_\_\_\_ (petition) at the following times and places, to-wit:

NAME	DATE	TIME	PLACE

And not executed as to the defendant, \_\_\_\_\_ the diligence used in finding said defendant, being: \_\_\_\_\_ and the cause of failure to execute this process is: \_\_\_\_\_ and the information received as to the whereabouts of said defendant, being: \_\_\_\_\_. I actually and necessarily traveled \_\_\_\_\_ miles in the service of this citation, in addition to any other mileage I may have traveled in the service of other process in the same case during the same trip.

Fees: serving ... copy(s) \$ \_\_\_\_\_  
miles .....\$ \_\_\_\_\_

**DEPUTY**

**COMPLETE IF YOU ARE PERSON OTHER THAN A SHERIFF,  
CONSTABLE OR CLERK OF THE COURT**

In accordance to Rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_ and the address is \_\_\_\_\_, and I declare under penalty of perjury that the foregoing is true and correct.

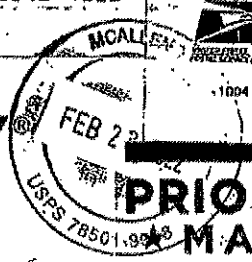
EXECUTED in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_.

\_\_\_\_\_  
Declarant"

\_\_\_\_\_  
If Certified by the Supreme Court of Texas  
Date of Expiration / PSC Number

PRESS FIRMLY TO SEAL

7021 1970 0001 6893 4512


**PRIORITY  
MAIL**

 U.S. POSTAGE PAID  
 PM 2-DBX  
 MCALLEN, TX 78501  
 FEB 22 22  
 AMOUNT  
**\$15.75**  
 R2306Y151773-12

 UNITED STATES  
 POSTAL SERVICE  
 VISIT US AT USPS.COM  
 ORDER FREE SUPPLY

- Expected delivery date specified for domestic use.
- Most domestic shipments include up to \$50 of insurance (restrictions apply).\*
- USPS Tracking® included for domestic and many international destinations.
- Limited international insurance.\*\*
- When used internationally, a customs declaration form is required.

\*Insurance does not cover certain items. For details regarding claims exclusions see the Domestic Mail Manual at <http://pe.usps.com>.

\*\* See International Mail Manual at <http://pe.usps.com> for availability and limitations of coverage.

 FROM: P.O. Box 5656  
 McAllen, TX 78502

**FLAT RATE ENVELOPE**  
 ONE RATE ■ ANY WEIGHT

 TO: CT Corporation System  
 1999 Bryan St., Ste. 900  
 Dallas, TX 75201-3136

**RETURN RECEIPT  
REQUESTED**

TR

 To schedule free Package Pickup,  
 scan the QR code.


Label 228, March 2016

FOR DOMESTIC AND INTERNATIONAL



Eric  
Bobby  
Robert  
Dennis

**Service of Process  
Transmittal**

02/28/2022  
CT Log Number 541128847

**TO:** Judy Coffman  
Cutler Repaving, Inc.  
921 E 27th St  
Lawrence, KS 66046-4917

**RE:** Process Served in Texas

**FOR:** Cutler Repaving, Inc. (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Re: Silvia Alaniz // To: Cutler Repaving, Inc.  
**DOCUMENT(S) SERVED:** \*\*  
**COURT/AGENCY:** None Specified  
Case # C064222A  
**NATURE OF ACTION:** Personal Injury - Vehicle Collision  
**ON WHOM PROCESS WAS SERVED:** C T Corporation System, Dallas, TX  
**DATE AND HOUR OF SERVICE:** By Certified Mail on 02/28/2022 postmarked: "Not Post Marked"  
**JURISDICTION SERVED:** Texas  
**APPEARANCE OR ANSWER DUE:** None Specified  
**ATTORNEY(S) / SENDER(S):** None Specified  
**ACTION ITEMS:** SOP Papers with Transmittal, via UPS Next Day Air , 1ZX212780126441380  
**REGISTERED AGENT ADDRESS:** C T Corporation System  
1999 Bryan Street  
Suite 900  
Dallas, TX 75201  
866-539-8692  
CorporationTeam@walterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.

(2022-108)

CAUSE NO. C-0642-22-A

SILVIA ALANIZ	§	IN THE DISTRICT COURT
	§	
VS.	§	92 <sup>ND</sup> JUDICIAL DISTRICT
	§	
CUTLER REPAVING, INC.	§	HIDALGO COUNTY, TEXAS

**DEFENDANT'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant, CUTLER REPAVING, INC., and hereby makes and files this its Original Answer to Plaintiff's Original Petition, and in support hereof would show the Court as follows:

I.

**GENERAL DENIAL**

Defendant denies each and every, all and singular, the allegations in Plaintiff's Original Petition, and says that they are not true, in whole or in part, and demands strict proof thereof on the trial of this cause.

**WHEREFORE, PREMISES CONSIDERED**, Defendant CUTLER REPAVING, INC., respectfully prays that Plaintiff take nothing from this Defendant and that the Court enter a judgment dismissing all claims against this Defendant with prejudice and awarding all costs of court and expenses incurred herein, and for such other and further relief, at law and in equity, general or special, to which this Defendant might show itself to be justly entitled to receive.

Respectfully submitted,

HODGE JAMES JILPAS & NICHOLS  
Attorneys at Law  
P.O. Box 534329 (78553)  
1617 E. Tyler Ave., Suite A  
Harlingen, Texas 78550  
Telephone: (956) 425-7400  
Facsimile: (956) 425-7707

/s/ Anthony B. James

Anthony B. James  
State Bar No. 10537300  
Email: [ajames@hodgejames.com](mailto:ajames@hodgejames.com)

Attorneys for Defendant, CUTLER REPAVING, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing, Defendant's Original Answer, has been served on the 8<sup>th</sup> day of March, 2022 to all attorneys of record electronic mail as follows:

Email: [lsmiguel@zreynalaw.com](mailto:lsmiguel@zreynalaw.com)

Email: [dolivarez@zreynalaw.com](mailto:dolivarez@zreynalaw.com)

Email: [esmer@zreynalaw.com](mailto:esmer@zreynalaw.com)

Email: [tcaquias@zreynalaw.com](mailto:tcaquias@zreynalaw.com)

Email: [crisrina@zreynalaw.com](mailto:crisrina@zreynalaw.com)

Ezequiel Reyna, Jr.

Tomas A. Caquias

Law Offices of Ezequiel Reyna, Jr., P.c.

702 W. Expressway 83, Suite 100

Weslaco, Texas 78596

*Attorney for Plaintiff*

/s/ Anthony B. James

Anthony B. James

### **Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Anthony James on behalf of Anthony James  
Bar No. 10537300  
ssaucedo@hodgejames.com  
Envelope ID: 62418403  
Status as of 3/8/2022 4:23 PM CST

#### Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
TOMAS ACAQUIAS		TCAQUIAS@ZREYNALAW.COM	3/8/2022 4:15:23 PM	SENT